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January 12, 2022

The Honorable Adam G. Hinds  
Senate Chair, Joint Committee on Revenue  
Statehouse, Room 109-E  
24 Beacon Street  
Boston, MA 02133

The Honorable Mark Cusack  
House Chair, Joint Committee on Revenue  
Statehouse, Room 34  
24 Beacon Street  
Boston, MA 02133

RE: 2881: **An Act Relative to the Massachusetts Estate Tax Code**

Dear Chairmen Hinds and Cusack,

On behalf of the Massachusetts Taxpayers Foundation, I write to express my support for **House Bill 2881: An Act Relative to the Massachusetts Estate Tax Code**.

Massachusetts Taxpayers Foundation is a non-partisan, nationally recognized, non-profit public policy research organization focusing on the state's fiscal and economic health. We have a long track record of providing independent, high quality analysis of important issues facing the state and we have a longstanding reputation for credibility and objectivity.

MTF has been a long-time advocate for making changes to the state's estate tax laws to make Massachusetts more aligned with other states.

I am writing today in support of **House Bill 2881: An Act Relative to the Massachusetts Estate Tax Code**. While the Foundation believes that the Massachusetts estate tax should mirror the federal estate tax, this bill would more closely align the Massachusetts estate tax with federal law, and is a reasonable initial step to ensure that the Commonwealth is not an outlier among its peer states.

As you know, Massachusetts decoupled its estate tax from the federal law effective January 1, 2003 and this has resulted in the current estate tax law in the Commonwealth differing from the federal code in several material ways. These differences have become more pronounced given the most recent changes to the federal estate tax provisions included in the Tax Cut and Jobs Act. For example, the current state exemption is set at \$1 million compared to the federal exemption of \$11.4 million for individuals and \$22.8 million for married couples filing jointly for tax year 2019. The federal exemption amount increases annually based on a cost of living index while the Massachusetts exemption does not. In addition, the federal estate tax law allows for the portability of a spousal exemption, meaning that if the first spouse to die does not use some or all of the personal exemption, the second spouse is entitled to utilize the unused portion. The Massachusetts law provides no such exemption. The effect of these differences is to create a law that is more onerous and far-reaching than the federal tax.

Massachusetts is one of only 12 states and the District of Columbia to impose an estate or inheritance tax, down from 21 states just a few years ago. Its \$1 million exemption threshold is the least generous among those states with an estate tax for which the mean is \$2,548,000 and the average is \$3,920,000. This combination makes the Massachusetts estate tax among the most burdensome in the nation and is frequently cited as the reason many taxpayers choose to retire to more tax advantageous locations.

The estate tax, when considered in conjunction with other recent tax, make the Massachusetts tax code burdensome for asset-rich taxpayers. The recent federal law change pertaining to the limitation of the deductibility of state and local taxes, as well as the proposed Massachusetts constitutional change that would impose a four percent surtax on income over a million dollars, will likely impact the same group of taxpayers and the cumulative effect is likely to drive residents to other, more friendly jurisdictions.

Due to the increased mobility resulting from the pandemic and the shift towards remote work, several states including Massachusetts are already experiencing a migration of residents to lower-cost jurisdictions. The estate tax could serve as one more impediment to attracting or retaining workers, particularly those nearing retirement age, to Massachusetts.

In fact, an informal survey by MTF of estate tax lawyers, indicated that the vast majority of their Massachusetts clients were already aware of the heavy estate tax burden and the lawyers felt it was their duty to inform clients, if clients were unaware. Affected taxpayers, particularly those who are older with substantial wealth, were the most likely to move. When people move away from Massachusetts, it is not just the revenue from estate taxes that we forfeit. The state also loses the tax revenue from property, income, sales and other taxes that they would have otherwise paid, along with their charitable giving and civic engagement.

The estate tax is really a trap for the unwary, as more sophisticated taxpayers are able to utilize planning techniques to avoid the tax altogether. Thus, the burden of the estate tax often falls on spouses or children of small business owners, real property owners and others who have grown the value of an asset over a lifetime, only to see the gains they hoped to pass on to beneficiaries wiped out by the taxes owed.

Thank you for the opportunity to provide written testimony. For the aforementioned reasons, I respectfully request that the Committee considers H.2881 a reasonable measure to address some of the concerns with the estate tax and report it favorably from Committee at your earliest convenience.

Regards,

A handwritten signature in cursive script that reads "Eileen McAnney".

Eileen McAnney, President

cc: Members of the Joint Committee on Revenue